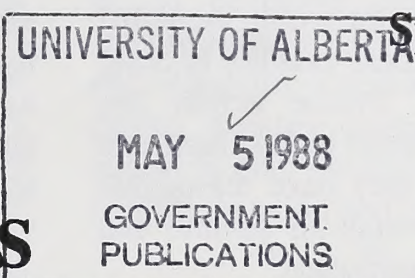


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Wife Abuse in Canada — New Attitudes, New Laws



The 1980's have seen family violence become a major social issue in Canada, with much attention focusing on the law as it relates to wife abuse. Several studies have been conducted, and many recommendations have been made. Some of those recommendations have resulted in revisions to both the Canadian law and the way it is administered.

The change in the nation's official response to the problem of family violence is a reflection of changing public attitudes. The laws and law enforcement policies practiced today are a far cry from those which prevailed just over a century ago when Canada became a country.

Canadian attitudes, practices and laws in 1867 had, for the most part, been adopted from values and traditions that had originated in 18th century England. The traditions that related to family life were built on the belief that it was the husband's obligation to control, correct and manage his wife, children and servants. Blackstone, who in 1765 wrote an influential review of women's legal status, stated:

The husband also, by the old law, might give his wife moderate correction. For as he is to answer for her misbehavior, the law thought it reasonable to entrust him with this power of restraining her, by domestic chastisement in the same moderation that a man is allowed to correct his apprentices or children; for whom the master or parent is also liable in some cases to answer. But this power of

correction was confined within reasonable bounds, and the husband was prohibited from using any violence to his wife, otherwise than lawfully and reasonably belongs to the husband for the due government and correction of his wife.

Thus, the husband was not allowed to use any form of violence against his wife which was not permitted by law at that time. For instance, he was allowed to beat her, so long as the stick he used was no thicker than his thumb.

In the same document, Blackstone went on to say:

The civil law gave the husband the same, or larger authority over his wife: allowing him, for some misdemeanors to beat his wife severely with scourges and cudgels...

The law which gave husbands the right to chastise their wives was not repealed in England until 1820. During that time also, women were unable to take action to end their marriages. It was not possible to obtain a civil divorce. Marriages could be ended only by church authority.

In 1857 when the courts were given the power to dissolve marriages, a man could be granted a divorce merely by stating that his wife had committed adultery. If a woman wanted to end her marriage, she was required to prove that her husband was guilty of more than adultery. Other factors, such as cruelty, incest or desertion had to be proven as well.

This divorce law was adopted in central Canada in the 19th century and in Alberta in 1905. From that time

until 1968, cruelty was not grounds for divorce anywhere in Canada except in Nova Scotia. The 1968 Divorce Act included cruelty as one type of grounds. However, when it was used, it required that the petitioner prove physical or mental cruelty was such that it rendered the cohabitation of the spouses intolerable. In 1986, a new Canadian Divorce Act eliminated all requirements for grounds except marriage breakdown.

Canada's criminal law also had its roots in 19th century England. The Criminal Code was enacted in 1892 when, as noted earlier, this country was a British colony very much influenced by Victorian England. At that time women did not have the right to vote and laws were made by men of the privileged and ruling classes.

Assault of one person by another has always been considered a crime in Canada. However, until very recently this part of the Criminal Code was seldom used in cases of assault within families. In 1981, a working paper on the response of the criminal justice system to wife assault, released by the

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Solicitor General Canada, stated that "arrest rates for wife assault may be too low and that police often do not arrest even when sufficient evidence is present for charges of assault."

In 1983, changes were made in the code that removed the requirement that police had to witness assaults in order to lay charges. Police across the country were directed to lay charges in any case where they have reasonable and probable grounds to assume that an assault had taken place.

Prior to 1983, it was not considered a crime for a man to rape his wife. Another change in legislation that year removed that exception and at the same time changed the law so that spouses could be compelled to testify against their partners in cases of assault and child abuse.

In 1984, the Canadian Law Reform Commission proposed that some forms of family violence be included in a special category of law. The commissioners proposed that assaults committed against a spouse, child, grandchild, parent or grandparent be

treated as aggravated assaults. In other words, because these offenses take place between family members, they should be seen as *more* serious than assaults outside the family; that such assaults constitute "special risks" which require "special protection." If this proposal were to be adopted and incorporated into law, it would demonstrate a complete turn around in the legal approach to some types of family violence, particularly wife assault.

Changes in the law and the response of the criminal justice system have been lauded by most persons



concerned with the issue of wife abuse. There is, however, still a great deal of ambivalence across the country about the role of the law, the police, the courts and the correctional system in addressing the problem of violence among family members.

As a recent study pointed out, women generally are more positive about the criminal justice system response when it is seen as a preventive and protective system rather than a punitive one. Women, for the most part, want protection from violence, and help, rather than punishment, for their partners. While they may recognize the value of society saying that wife abuse will not be tolerated, they know that the law alone cannot solve this problem.

Laws and their enforcement can only be part of a larger solution that must include other efforts to change both the attitudes and the behaviors associated with wife abuse.

(References available upon request.)

Gerry Kilgannon

Did You Know?

- **Bill C-15** was passed by the House of Commons, June 23, 1987 and was proclaimed into law January 1, 1988. The Bill contains amendments to the Criminal Code and the Canada Evidence Act, all of which relate to child sexual abuse. Several new offences have been created. A child victim will be able to present evidence, even if he or she is too young to understand an oath, after promising to tell the truth. Corroboration by another witness is no longer necessary. A videotape of the child victim's testimony may be used in court if it is made within a reasonable time after the alleged offence.

- **British Columbia** has appointed a

solicitor in its Ombudsman's Office to take up the complaints of children. Deputy Ombudsman Brian Parfitt says his priority will be helping young people who do not know where to turn when it comes to dealing with government. He will also be responsible for coordinating investigations into provision of services to children through the Ministries of Education, Social Services, Health, Attorney General and Advanced Education, as well as improving access to government for young people.

from B.C. Parents in Crisis Society Newsletter

- **The Institute for the Prevention of Family Violence** which is funded by The Lions Christmas Telethon has

opened its doors at 11044 Whyte Avenue, Edmonton. Board members and Executive Director, Michael Crawford are making plans for the first year's operation. Included in those plans is the organization of a conference to be held in Edmonton in November, which will focus on prevention of family violence. For information, call 433-4646.

- **National Crime Prevention Week, 1988** will be held October 30 - November 5. Limited funding is available for the purpose of supporting crime prevention activities during that week. For more information call 420-2222, or write to Consultation Unit, 260, 10149 - 109 Street, Edmonton.

Community News

Calgary

The Sunbow Society for the Prevention of Family Violence serving the communities of **High River, Okotoks, Turner Valley, Blackie, Black Diamond, Cayley** and **Foothills M.D.** is planning a week of family violence prevention activities April 20-29. The campaign, to be called "No Hitters Week" will have as its theme "There's too much silence about family violence." Edmonton's Catalyst Theatre has been helping High River High School drama students prepare a presentation about the topic which will be performed for the public and in high schools in the area. Many dignitaries have been invited to participate in a Pancake Breakfast on April 23. Churches, local media and many others will be involved in the numerous activities planned for the week.

South

The general public was invited to participate in a day-long seminar on sexual assault and abuse in **Lethbridge**, March 19. The seminar, entitled "Beware! Be Prepared," consisted of a variety of workshops and a closing panel discussion. Topics included: definitions of sexual assault and abuse; Lady Beware program; normal sexual development; why good kids become victims; effects of the media on victims of sexual assault; teaching personal safety to children; the aftermath of sexual assault and responding to disclosures. The closing panel included workshop presenters as well as representatives of the police, the crown prosecutor's office and Alberta Social Services child protection staff.

Central

The Society for the Prevention of Family Violence for **Wetaskiwin** and District has established a Family Resources Centre which provides information, support and treatment programs. The building for the centre was purchased by the local Lions and Lionesses, who have committed \$35,000 to pay the mortgage. The Wetaskiwin Jaycees have donated \$3,000 for furnishings. A group program entitled "Understanding Your Anger," primarily for women who have been in abusive relationships, began February 1 at the centre. A treatment group for children who have experienced family violence is also being conducted at the centre.

Northwest

The two northern communities of **La Crete** and **Fort Vermilion** participated in public presentations on family violence during the winter. In October, the La Crete Steering Committee for the Prevention of Family Violence invited speakers from Odyssey House, the women's shelter in Grande Prairie, to talk about wife abuse to community people. The Fort Vermilion Further Education Council arranged a showing of films, a panel discussion and a speaker from the Office for the Prevention of Family Violence to talk about wife, child and elder abuse. The local newspaper in La Crete, with the assistance of the Steering Committee, publishes a monthly column about family violence.

Northeast

The Association for the Coordination of Family Violence Services has been established to

coordinate family violence community services in northeastern Alberta. The association has an office in **Lac La Biche** and has appointed Sheila Smith as its executive director. Sheila's responsibilities include establishing and managing a regional information centre, assisting communities in the region to plan services, and providing public education and information.

* * *

The community of **St. Paul** has established the Organization for the Prevention of Adult Abuse (OPAA) with representatives from Alberta Mental Health Services, Home Care, Alberta Social Services, the Crisis Centre, RCMP, Association for the Handicapped, Community Health Nursing, Public Guardian and a client advocate. Plans call for the establishment of an emergency telephone number and arrangements for respite care to be made available.

* * *

A group of professionals have been meeting in **Vegreville** to discuss suspected cases of elder abuse and develop a coordinated response in the community to this problem. The group includes representatives from Alberta Mental Health Services, Alberta Social Services, Home Care, Community Health Nursing and Family and Community Support Services.

Edmonton

In **Edmonton**, the Franciscan Sisters of the Atonement are offering to house women and children who are awaiting admission to one of the women's shelters in the area. They provide a supportive and safe environment to women and children in need of emergency assistance. The Sisters had previously been using their building for a children's treatment program.

Calendar of Events

April 20-21 Ottawa

First Annual Conference on Study and Treatment of Sexual Abuse

Contact: Department of Social Work
Ottawa General Hospital
Ottawa, Ontario
Phone: (613) 737-8600

April 26 Edmonton

Child Welfare Research and Practice Implications

Contact: Ms. Kathy Penner
Faculty of Social Welfare
8625 - 112 Street
Edmonton T6G 1K8
Phone: (403) 432-3888

April 27-30 Anaheim, California

National Symposium on Child Victimization

Contact: Conference Coordinator
Children's Hospital
National Medical Center
111 Michigan Avenue N.W.
Washington, D.C. 20010

May 24-27 Toronto

"No More Secrets" A Conference on Child Abuse

Contact: Community Resources and Initiatives
303A Melita Avenue
Toronto, Ontario M6G 3X1

September 25-28 Rio de Janeiro, Brazil

International Congress on Child Abuse and Neglect

Contact: Congress Secretariat
LK Assessoria E Promocois LTDA
Rua Costa Pereira, CEP 20511
Rio de Janeiro, Brazil

Book Review

Women and the Law in Alberta

by the Calgary Association for Women and the Law, 82 pp., 1985

"Information is power," say the authors of this fine publication. "Women with knowledge are better able to seek what rightfully belongs to them and to make free, informed choices." And what better way to make those choices more informed than by reading this handy, insightful booklet?

Women and the Law in Alberta is a highly readable guide to general legal information (provincial and federal) for women. Men will undoubtedly find it useful, too. In fact, this booklet is recommended to any person who wants to know about laws that directly or inadvertently affect us all.

There are a total of eight chapters in this booklet. The chapters are well organized, objective, well researched and discuss the basics — legal access, marital status, children, money, work, crime, minorities and health. The discussions are quite general, as this publication is meant to be a guide only. "It is not intended to replace expert advice of any kind," say the authors.

Two chapters deal with assault/abuse and the law. One chapter, Women and Children, clearly defines the Child Welfare Act and the Criminal Code provisions relating to child abuse. Another chapter, Women as Victims, adequately covers sexual and physical assault from a legal point of view. Legal proceedings, testimony, evidence and the code's definition of sexual assault are some of the topics covered. There is an excellent section on battered women and the law. It includes information on protection, compensation, restraining orders, peace bonds and the Matrimonial Property Act.

The booklet contains a convenient

listing of legal and community resources in Alberta (including shelters and emergency services for battered women) and a glossary at the back.

Funded by the Alberta Law Foundation in 1983 and revised in 1985, this booklet could use another revision soon. The section on divorce law is now outdated and the recent Criminal Code and Canada Evidence Act amendments relating to child sexual abuse will need to be included next time. But apart from the needed changes, much can be gained from reading this booklet. The current edition is available (one copy per person) from The University of Alberta Legal Resources Centre, 10049 - 81 Avenue, Edmonton, T6E 1W7, or The Calgary Association of Women and the Law, Faculty of Law, University of Calgary, T2N 1N4.

Beth Evoy

"FOCUS: FAMILY VIOLENCE PREVENTION" is a quarterly publication of the Office for the Prevention of Family Violence. Submissions for future issues, especially news about community activities, are welcome. To put your name on the mailing list for additional copies, contact the Office. Address all correspondence to: The Office for the Prevention of Family Violence
Alberta Social Services
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Edmonton, Alberta
T5J 3E4

Effective April 1, 1988, the Office for the Prevention of Family Violence will move to the 11th floor, Seventh Street Plaza, 10030 - 107 Street, Edmonton, Alberta T5J 3E4, (403) 422-5916.